Remarks

Claims 23-26, 28-37, 39-40, 42, 43 and 48-55 have been amended. Basis for the amendments to the independent claims 23 and 39 can be found in the specification at page 5 line 30, page 6 line 5 to page 7 line 7, in Figures 2, 2a and 2b, and in claim 25. Dependent claims 24-26, 28-37, 40, 42, 43 and 48-55 have been amended to correspond with the amended independent claims 23 and 39.

Claims 27, 38 and 41 have been cancelled without prejudice.

Claim 56 has been added. Basis for this addition can be found in claim 24.

In section 1 of the Office Action the Examiner rejects claim 23 under a non-statutory double patenting rejection over US Patent Number 5,848,361. US patent 5,848,361 (hereinafter referred to as Edwards) discloses a "signal combiner for a radio communication base station arrangement" (Edwards, title). Edwards does not disclose the following features of claim 23:

1. a receiver arrangement for a wireless terminal;
2. a delay element;
3. a signal assessor arranged to assess said combined signal according to a pre-determined metric;
4. a controller arranged to selectively switch at least one antenna into its receive path and to determine dependent on said assessment whether to change said

signal selection or to maintain said signal selection for a pre-determined period.

The present invention as defined by the amended claim 23 is clearly distinct from the teaching of Edwards and it is respectfully submitted that the double patenting rejection cannot now be sustained.

The Examiner also cites Dean, US Patent Number 5,533,011 in rejecting certain claims on the basis of obviousness-type double patenting. Dean also relates to basestations and not to terminals (see Dean abstract and Figure 3). Furthermore Dean does not disclose "a plurality of receive paths" but instead teaches a serial architecture as shown in Figure 2. Figure 2 shows only two receive paths used in conjunction with multiple antennas (Dean, column 9, lines 3-9). Dean also does not disclose the use of switches, a signal assessor or a controller. Consequently the present invention as defined by claim 23 is clearly not anticipated by Dean.

Furthermore, a skilled person would not be motivated to combine Edwards and Dean because they relate to different radio technology. Edwards describes a basestation suitable for use with TDMA which allows switching of antennas at the basestation because at any one time the basestation will only be receiving a signal from a single user. In contrast to this Dean discloses a basestation for use in a CDMA system (see Dean, background section) and in such a system it is not possible to switch out antennas as in any one time slot the basestation will be

receiving signals from many users and switching between antennas would result in loss of data. Furthermore if a skilled person did combine Edwards and Dean they would not arrive at the present invention, as neither Edwards nor Dean disclose:

1. a receiver arrangement for a wireless terminal;
2. a signal assessor;
3. a controller.

Consequently, the present invention as defined by the amended claim 23 is clearly both novel and not obvious in view of any combination of Edwards and Dean.

The Examiner also cites Okada as a secondary reference. Oksada teaches "a method of operating a combination radio telephone and paging device" (Okada, title). Okada does not teach any of the features of claim 23 and instead relates to a single terminal which combines a radio telephone with an antenna (Okada, Figure 1, element 125) and a pager with its own distinct antenna (Okada, Figure 1, element 127). A skilled person would also not be motivated to combine Okada with Edwards and / or Dean because Okada does not relate to a basestation or to a diversity arrangement of antennas.

The Examiner also cites Lee US Patent Number 5,818,543 as a secondary reference. Lee relates to a "diversity receiver for television" (Lee, title). Lee does not teach use of "a delay element" (this application, claim 23). Lee also does not

disclose use of "a plurality of switches" (this application, claim 23), instead Lee teaches use of a single switch as shown in Figure 1, element 14. Lee does not disclose or even hint at the use of "a combiner" (this application, claim 23), and instead teaches the use of the switch to select only one of the received signals (Lee, column 2, lines 38-40). Indeed Lee teaches against the use of a combiner (Lee, column 1, lines 26-37). Consequently the present invention as defined by the amended claim 23 is clearly not anticipated by Lee.

A skilled person would not be motivated to combine Lee with Edwards and/or Dean to arrive at the present invention because Lee relates to a different technology field of broadcast TV, compared to Edwards and Dean which relate to basestations for mobile telephony communications. Furthermore, Lee teaches against the use of a combiner which is an essential element of the apparatus of both Dean and Edwards. Consequently the present invention as defined by the amended claim 23 is clearly both novel and not obvious over Lee, Edwards and Dean in any combination.

The final reference cited by the Examiner is Nagashima, US Patent Number 5,740,204. This patent describes a technique of MLSE demodulation which is suitable for use with the invention contained within this application, but does not disclose any of the features of claim 23. Therefore it is not possible to combine Nagashima with any of the other cited prior art to arrive at the present invention.

The applicant therefore respectfully submits that the rejection of claim 23 cannot now be sustained.

In section 1 of the Office Action the Examiner also rejects independent claim 39. Independent claim 39 has been amended in a corresponding manner to claim 23 and the above arguments are also applicable to claim 39. It is therefore submitted that the rejections of claim 39 cannot now be sustained.

The Examiner also rejects dependent claims 24-38 and 40-55. As these are dependent on claims which are now deemed allowable, it is respectfully submitted that these rejections are moot in light of the foregoing.

In view of the fact that all of the Examiner's comments have been addressed, further and favorable consideration is respectfully submitted.

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